

Comparisons of State Codes of Official Conduct



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As requested by the Ethics Interim Committee, staff members have compiled comparisons from other states with four specific actions listed in Utah's Code of Official Conduct.

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Employment and Other Activities

Utah

- Members shall not engage in any employment or other activity that would destroy or impair their independence of judgment.
Rules of the Fifty-eighth Legislature, JR6-1-102(2)(a).
- It is an offense for a public officer, public employee, or legislator to:
 - accept other employment that he might expect would impair his independence of judgment in the performance of his public duties;
 - accept other employment that he might expect would interfere with the ethical performance of his public duties.

Utah Code Ann. § 67-16-4 (2010).

Kentucky

- A member of the legislator's family shall not be employed or appointed to an office or position in the legislative branch of state government.
- A legislator shall not advocate or cause the employment, appointment, promotion, transfer, or advancement of a member of the legislator's family to an office or position in the executive branch of state government.

KRS § 6.754 (2008).

Montana

- A public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless the salary is reimbursed for the time absent or the salary is reduced by the amount received from the other public employer.

Mont. Code Ann. § 2-2-104 (2007).

New Jersey

- No state officer or employee or special state officer or employee should undertake any employment or service, whether compensated or not, which might reasonably be expected to impair his objectivity and independence of judgment in the exercise of his official duties.
N.J. Stat. § 52:13D-23 (2008).
- No member of the Legislature shall undertake any employment or act in any way that impairs the objectivity or independence of judgment of the member of the Legislature in the exercise of his or her duties or is violative of the public trust by an elected official or which creates a justifiable impression among the public that such trust is being violated.

Legislative Code of Ethics, 2:1.

New Mexico

- Members shall attempt to ensure that their private employment does not impair their impartiality (Senate Rule 26-1(B)(2), House Rule 26-1-(B)(2).
New Mexico Legislative Ethics Guide, Required Conduct.

New York

- No officer or employee of a state agency, member of the legislature or legislative employee should accept other employment which will impair his independence of judgment in the exercise of his official duties.

NY CLS Pub O § 74 (2010).

Wyoming

- No public official, public member or public employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of the state, a county, municipality, or a school district.
Wyo. Stat. § 9-13-104 (2008).
 - A public official, public member or public employee may not vote or take an official action in a matter affecting a person with whom the public official, public member or public employee is negotiating for prospective employment.
Wyo. Stat. § 9-13-107 (2008).
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Influence on Other Governmental Entities

Utah

- Members shall not exercise any undue influence on any governmental entity.
Rules of the Fifty-eighth Legislature, JR6-1-102(2)(c).
- A legislator, member of his household, or client shall not be a party to or have an interest in the profits or benefits of a state contract when the state contract is the direct result of a bill sponsored by the legislator unless the contract is let in compliance with state procurement policies and is open to the general public.

Utah Code Ann. § 36-19-1 (2010).

California

- No public official or elected state officer shall make or participate in making of, or use his official position to influence, any governmental decision before the agency in which he serves, or has a financial interest.

Cal Gov Code §§ 87100, 87102.8 (2009).

Kentucky

- A legislator or candidate by himself, or through others, shall not intentionally undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, sale, or purchase of the value of \$100 or more per transaction, made, entered into, awarded, or granted by any state agency. Exceptions include competitive bidding.
KRS § 6.737 (2008).
- A legislator, by himself or through others, shall not use or attempt to use any means to influence a state agency in direct contravention of the public interest at large. Exception provided for legislative inquiry. Also provides restrictions of representation of clients before state agencies.
KRS § 6.744 (2008).

Nevada

- A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.
Nev. Rev. Stat. Ann. § 281A.400 (2008).
- A member of the legislative branch whose public service requires less than half of his time, may represent or counsel a private person before an agency in which he does not serve. Written disclosure is required when representation or counseling a private person for compensation.
Nev. Rev. Stat. Ann. § 281A.410 (2008).

New Hampshire

- Legislators shall not conduct private negotiations with any governmental agency in an attempt to obtain a decision on a pending matter which would result in special personal benefit to the legislator, to the legislator's immediate family, or to certain constituents which would not be available to others under similar conditions.
- Nothing in this section on prohibited activities should be construed to prohibit the:
 - assistance to constituents in their dealings with state agencies;
 - advocacy of a particular outcome on matters pending before a state agency when the legislator believes such a decision would benefit the general public.

New Hampshire General Court, Ethics Guidelines and Procedural Rules, Section 4.

New Jersey

- No . . . member of the Legislature, nor any partnership, firm or corporation in which he has an interest, nor any partner, officer or employee of any such partnership, firm, or corporation, shall represent, appear for, or negotiate on behalf of, or agree to represent, appear for, or negotiate on behalf of, any person or party other than the State in connection with any cause, proceeding, application or other matter pending before any State agency. Exemptions include when the corporation is acting for itself, and legislator representing a constituent.
N.J. Stat. § 52:13D-16 (2008); Legislative Code of Ethics, 2:2.
- No member of the Legislature or state officer or employee shall knowingly himself, or by his partners . . . undertake or execute, in whole or in part, any contract, agreement, sale or purchase of the value of \$25 or more, made, entered into, awarded or granted by any state agency. Exception provided for purchases, contracts, agreements or sales made or let after public notice and competitive bidding.

N.J. Stat § 52:13D-19 (2008).

New Mexico

- A state agency shall not enter into a contract for services, construction or items of tangible personal property with a public officer or employee of the state, with the family of the public officer or employee or with a business in which the public officer or employee or family has a substantial interest unless the substantial interest is disclosed and the contract is awarded pursuant to the procurement code.
N.M. Stat. § 10-16-7 (2008).
- A state agency shall not enter into a contract with, or take any action favorably affecting, any person or business that is represented personally in the matter by a person who has been a public officer or employee of the state within one year if the value of the contract or action is in excess of \$1,000 and the contract is a direct result of an official act by the public officer or employee.
N.M. Stat. § 10-16-8 (2008).
- Members shall not appear for, assist or represent anyone before a state agency, unless without compensation or for the benefit of a constituent, except attorneys or other professionals engaged in their professions, and in those cases, members shall refrain from references to their legislative capacities and from communications on legislative stationery.

New Mexico Legislative Ethics Guide, Prohibited Conduct.

Virginia

- No legislator shall offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency.

Va. Code Ann. § 30-103 (2008).

Abuse of Position/Violation of Trust

Utah

- Members shall not engage in any activity that would be an abuse of official position or a violation of trust.

Rules of the Fifty-eighth Legislature, JR6-1-102(2)(d).

Colorado

- It is a breach of fiduciary duty and the public trust to accept a gift of substantial value or substantial economic benefit tantamount to a gift, which would tend to improperly influence a reasonable person to depart from the faithful and impartial discharge of his public duties.
C.R.S. § 24-18-104 (2008).
- It is a breach of fiduciary duty and the public trust to accept a fee, a contingent fee, or any other compensation for promoting or opposing the passage of legislation.
C.R.S. § 24-18-106 (2008).

Montana

- Proof of commission of any act enumerate in this section is proof that the legislator committing the act has breached the legislator's public duty. A legislator may not:
 - accept a fee, contingent fee, or any other compensation, except official compensation provided by statute, for promoting or opposing the passage of legislation;
 - seek other employment for the legislator or solicit a contract for the legislator's services by the use of the office;
 - accept a fee or other compensation from a Montana state agency or a political subdivision for speaking to the agency or political subdivision.
Mont. Code Ann. § 2-2-111 (2007).
- When a legislator is required to take official action on a legislative matter as to which the legislator has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in the official action.

Mont. Code Ann. § 2-2-112 (2007).

Nevada

- A public officer shall not seek or accept any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.

Nev. Rev. Stat. Ann. § 281A.400 (2008).

New Hampshire

- Legislators should treat their office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.
- Legislators should employ independent objective judgment in performing their duties, deciding all matters on the merits free from conflicts of interest and both real and apparent improper influences.

New Hampshire General Court, Ethics Guidelines and Procedural Rules, Section 1.

New Jersey

- Code of ethics for officers and employees of state agency shall conform to the following general

standard:

- No state officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a state officer or employee.
- No state officer or employee or special state officer or employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, which is in substantial conflict with the proper discharge of his duties in the public interest.
- No state officer or employee or special state officer or employee should act in his official capacity in any matter wherein he has a direct or indirect personal financial interest that might reasonably be expected to impair his objectivity or independence of judgment.

N.J. Stat. § 52:13D-23 (2008).

New Mexico

- A legislator, public officer or employee shall treat the legislator's, public officer's or employee's government position as a public trust. The legislator, public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests incompatible with the public interest.
- Legislators, public officers and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.

N.M. Stat. Ann. § 10-16-3 (2008); New Mexico Legislative Ethics Guide.

New York

- An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

NY CLS Pub O § 74 (2010).

Use of Position to Secure Privileges

Utah

- Members shall not use their official position to secure privileges for themselves or others.
Rules of the Fifty-eighth Legislature, JR6-1-102(2)(g).
- It is an offense for a public officer, public employee, or legislator to:
 - use or attempt to use his official position to further substantially the officer's or employee's personal economic interest;
 - secure special privileges or exemptions for himself or others.Utah Code Ann. § 67-16-4 (2010).

Kentucky

- A legislator, by himself or through others, shall not intentionally use his official position or office to obtain financial gain for himself, any member of the legislator's family, or a business associate of the legislator.
- A legislator shall not intentionally use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in direct contravention of the public interest at large.
KRS § 6.731 (2008).

Nevada

- A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interest of that person.
- “Unwarranted” means without justification or adequate reason.
Nev. Rev. Stat. Ann. § 281A.400 (2008).

New Hampshire

- Legislators shall not threaten reprisals or promise inducements of any kind to influence another so as to obtain special personal benefits for the legislator, the legislator’s family, or for certain constituents which would not be available to others under similar conditions.
- Legislators shall not use their public position or office to obtain anything of value for the private benefit of the legislator or the legislator’s immediate family.
New Hampshire General Court. Ethics Guidelines and Procedural Rules, Section 4.

New Jersey

- Code of ethics for officers and employees of state agency shall conform to the following general standard: No state officer or employee or special state officer or employee should use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others.
N.J. Stat. § 52:13D-23 (2008).

New Mexico

- Member shall not use the powers and resources of their offices to obtain personal benefits or pursue interest incompatible with the public interest. (NMSA 10-16-3(A))
- Members shall not grant to, or obtain a special privilege or exemption for, themselves or others if the privilege or exemption is not readily available to members of the general community or class to which the beneficiary belongs. (Senate Rule 26-1(D)(2), House Rules 26-1(D)(2)).
- Members shall not use the powers and resources of their offices to obtain personal benefits or pursue private interest incompatible with the public interest (NMSA 10-16-3).

New York

- No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his official position to secure unwarranted privileges or exemption for himself or others.

NY CLS Pub O § 74 (2010)

Oregon

- A public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office. Exemptions provided for compensation package, honoraria, reimbursement of expenses, unsolicited professional award, and certain gifts.

ORS § 244.040 (2007).

Washington

- Except as required to perform duties within the scope of employment, no state officer may use his or her position to secure special privileges or exemptions for himself, herself, or his or her spouse, child, parents, or other persons.
- No state officer may employ or use any person, money, or property under the officer's official control or direction, or in his or her official custody, for the private benefit or gain of the officer or another.

Rev. Code Wash. § 42.52.070 (2008).

Rev. Code Wash. § 42.52.160 (2008).

Wyoming

- No public official, public member or public employee shall use his office or position for his private benefit.
- As used in this section, "private benefit" means the receipt by the public official, public member or public employee of a gift which resulted from his holding that office.
- A public official, public member or public employee shall not use public funds, time, personnel, facilities or equipment for his private benefit or that of another unless the use is authorized by law.

Wyo. Stat. § 9-13-103 (2008).

Wyo. Stat. § 9-13-105 (2008).